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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,769	01/04/2001	Omar H. Shahine	149483.1LH&D No. MCS-053-	3165

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EXAMINER	
NGUYEN, LE V	

ART UNIT	PAPER NUMBER
2174	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/755,769	Applicant(s) SHAHINE ET AL.	
	Examiner Le Nguyen	Art Unit 2174	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

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Continuation of 11. NOTE: Applicant's arguments in a Request for Reconsideration have fully considered but they are not persuasive. Applicant argued the following:
(a) The rejection of claim 1 does not provide any support for Smith's alleged capability of automatically associating a priority with each data object in a set of data objects.
(b) The Smith reference fails completely to disclose "dynamically populating the display device by automatically arranging a position of at least one data object within a visible display area of the display device beginning with a data object having a highest priority (emphasis added)" as claimed in claim 1.
(c) Microsoft Windows (MS Win) fails completely to teach or in any way disclose that "the automatically arranged position of data objects within the visible display area is not predefined".
(d) MS Win reference fails to teach continuing to dynamically populate the display device by continuing to automatically arrange a position of one or more of the data objects having a next highest priority until available space within the visible display area of the display device has been filled with data objects.
(e) MS Win reference fails to teach that the priority associated with each data object is based on a pre-designated priority list. Moreover, MS Win reference fails to teach that the priority associated with each data object is changeable.
(f) Shirakawa does not appear to compute a number of columns.
(g) Office Action fails completely to support the argument that Cushman discloses manually assigning priorities to individual elements of contact information in an electronic address book.

The examiner disagrees for the following reasons:

Per (a), the Office Action clearly indicates Smith's teaching of automatically associating a priority with each data object in a set of data objects (figs. 8B, 12A and 15B; col. 7, lines 1-14; col. 8, lines 25-28; dynamically populating the display device by arranging a position of data objects within the visible display area of the display device beginning with a data object having a highest priority "BRIAN BEATON" of fig. 15B). Moreover, Smith teaches displaying data objects wherein the priority automatically associated with each data object is inherent to the layout as proven by the displayed arrangement of the data objects and their relative location and distance from each other.

Per (b), in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Smith teaches dynamically populating the display device by arranging a position of data objects within the visible display area of the display device beginning with a data object having a highest priority (figs. 8B, 12A and 15B; col. 7, lines 1-14; col. 8, lines 25-28; dynamically populating the display device by arranging a position of data objects within the visible display area of the display device beginning with a data object having a highest priority "BRIAN BEATON" of fig. 15B) and continuing to automatically arrange a position of one or more of the data objects having a next highest priority until available space within the visible display area of the display device has been filled with data objects (figs. 8B; col. 7, lines 17-23). The teachings extracted from MS Win is for the feature of automatically displaying data objects on a computer display device comprising automatically associating a priority with each data object in a set of data objects, dynamically populating the display device by arranging a position of data objects within the visible display area of the display device beginning with a data object having a highest priority wherein the automatically arranged position of data objects within the visible display area is not predefined (figs. 1-4).

Per (c), MS Win does teach that the automatically arranged position of data objects within the visible display area is not predefined (figs. 1-4; populating the display device with "New Data Object" 110 and selecting 310, "Arranging icons > by Name", allows data objects to be automatically arranged within the visible display area of the display device beginning with a data object having a highest priority 410, "bcbs1", wherein the automatically arranged position is not predefined but defined upon selecting 310).

Per (d), the modified MS Win does teach continuing to dynamically populate the display device by continuing to automatically arrange a position of one or more of the data objects having a next highest priority until available space within the visible display area of the display device has been filled with data objects (MS Win: figs. 1-4; the data objects are populated until available space within the visible display area of the display device has been filled with data objects). Applicant's assertion that MS Win will continue to populate the non-visible display area with data objects seems to rely on a scenario wherein data objects exceeds visible displayed space and does not preclude a scenario wherein the data objects are populated until available space within the visible display area of the display device has been filled with data objects as claimed.

Per (e), MS Win does teach that the priority associated with each data object is based on a pre-designated priority list wherein the priority associated with each data object is changeable (MS Win: fig. 3, list 320; Smith: fig. 12A; col. 8, lines 25-28; the priority associated with each data object is based on a pre-designated priority list such that selecting another option on the list changes the priority associated with each data object wherein the priority associated with each data object may be one of name, size, etc.).

Per (f), Shirakawa teaches using data stored about shape restrictions such as the maximum and the minimum length and width ratios and the maximum and minimum character pitches and line intervals as well as the maximum and minimum ratios between the character pitch and line intervals corresponding to the field in order to calculate whether an article requiring a width of two columns will fit in column 312 having a width for one column (col. 14, line 65 through col. 15, line 64). Therefore, in order to judge that the article requires a column 310 having a width of two columns, Shirakawa does teach computing a number of columns that will fit within an available space.
Per (g), the modified Cushman teaches manually assigning priorities to individual elements of contact information in an electronic address book (Smith: col. 8, lines 60-61 and 64-65; automatically displaying contact information for contacts in an electronic address book wherein the priority associated with each individual element of the contact information is automatically assigned to each element; Cushman: figs. 2(h); col. 5, lines 47-65 and col. 4, lines 54-56; i.e. users may add or delete entries into the frequently called numbers directory wherein searches are viewed from the directory of frequently called numbers directory and proceeds to the main directory).